

COMMUNICATIONS
FROM CHARTER
COMMITTEE MEMBERS

PENDLETON, SAWYER

From: GREEN, BRENDA

Sent: Monday, September 16, 2013 1:31 PM

To: PENDLETON, SAWYER; Kirk Bauermeister; Mike Decker; 'yms@jones-mayer.com'; Kimberly Hall Barlow - City Attorney

Good Afternoon Brenda,

Below please find the language I have drafted for the Public Bids.

ORIGINAL LANGUAGE PRESENTED TO THE CHARTER:

The Public Services Department shall be authorized to utilize the informal bidding procedures and cost thresholds set forth in the Uniform Construction Cost Accounting Act (UCCAA), as the procedures and cost thresholds may be modified every five years by the UCCAA Commission. The City shall not be obligated to comply with any provision of the UCCAA, including but not limited to future changes which related to matters other than solicitation of bids and thresholds for informal bidding.

PROPOSED LANGUAGE:

The Public Services Department will use the informal bidding procedures and cost thresholds set forth in the June 2013 Uniform Construction Cost Accounting Act (UCCAA). The Public Services Department is allowed to adopt a stricter version of the June 2013 UCCAA if it sees fit that a stricter version would be to the benefit to the City. While the City will continue to use the June 2013 UCCAA bidding procedures, bid threshold amounts will move with those established in the UCCAA every 5 years.

Intent on the language –

- Establish a definitive marker (June 2013 UCCAA rules) that states the City WILL use formal bidding procedures drafted by the Commission. There is no open door to changes this depending on the whim of the City Council.
- Give the City some flexibility to use STRICTER thresholds as they see fit through already defined procedures set forth by the Public Works Department.
- Give the City the ability to update monetary thresholds to stay current with the times in regards to the amounts of projects. I.e., if the minimum amount for the procedures is now \$45,000, but five years from now they change it to \$50,000, the City should be able to use that new marker without having to adhere to all the new rules/regulations.

I cannot stress this enough, please feel free to wordsmith. I want Yolanda/Kim to ensure it has the proper legal language to reflect my intent.

Maybe Ernesto can look at it to see if he has any comments?

Thank you,

COMMENTS REGARDING SUBJECTS FOR SEPTEMBER 25 MEETING

Openness

I concur with the statements below as given us prior to the September 11 meeting:

- The city will promote fair and open competition for all City construction projects so that all contractors and workers are treated equally in the bidding and awarding of City Public Works Contracts.

-All citizens have the right to offer grievances or suggestions for the betterment of municipal affairs at any regular meeting of the City Council.

Retention

Although many cities have no mention of retention in their charters, language about retention should be in Costa Mesa's charter. A maximum of 5% is too low. Preferred language should be similar to that found in the Newport Beach and Los Alamitos charters:

See section 1110 of the Newport Beach charter for precise language, but basically it says that if no amount is specified in the bid invitation, then an amount of not less than 10% should be withheld. Of course a different figure can be used in the bid invitation. The full second paragraph of the Newport charter is appropriate to include in the Costa Mesa charter.

Firewall

I concur with the statements below as given us prior to the September 11 meeting:

Neither the City Council nor any of its members shall interfere with the execution by the City CEO of his or her powers and duties. No member of the City Council shall give direct order to any subordinates of the City CEO. No member of the City Council shall attempt to influence or coerce the City CEO in the administrative service of the City. The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage, nor shall any department head or other officer having appointive power appoint any relative by blood or marriage.

Quality

No separate statement needed.

Prevailing Wage

I concur with the statements below as given us prior to the September 11 meeting:

The City exempts locally funded public works projects from mandated prevailing wage. Unless prevailing wage is compelled by the terms of a federal or state grant or is otherwise funded from a source that requires prevailing wage; the public work is a matter of statewide concern; or the payment of prevailing wage is separately authorized by the City Council, because the project is of a complexity and nature that the public interest would be served by requiring prevailing wage.

Governance – Districting

The city shall be served by five (5) city council members, each representing mutually exclusive city council districts and shall be elected by vote of the eligible voters within their respective districts. City Council candidates must have their permanent residence within the districts they represent and must continue to have their permanent residence there. Within reason, all districts shall represent numbers of voters that are roughly the same size, and specific effort shall be given to divide the city into districts that represent the current characteristic wants and needs of the voters within that given district.

Elections for City Council shall be staggered so that no more than three Council members are up for election during any regular election.

As Council terms are completed for the current 2013 City Council, a specific separate plan will be needed for how to transition from elected-at-large city council members to members who only represent a certain district.

Governance – Compensation

When first becoming a charter city, the compensation for the City Council members should be continued as it was under general law and any current city ordinances, but with the understanding that it will be studied by a citizen committee examining both the needs of the city and a review of practices in other Orange County cities. After this review, current City Council compensation may be refined through future new ordinances or ordinance changes.

Some guiding principles should be.

1. Being a member of the City Council, should be viewed as a way for a resident to contribute or give back to Costa Mesa by taking actions in the best interest of the majority of the residents and optimizing the overall experience of living in Costa Mesa. The Council members' actions should strive to benefit all the residents of the city to the greatest degree possible within the city resources that are available.
2. Being a City Council member should not be considered:
 - a. Full-time employment
 - b. A long-term career
 - c. A quick stepping stone to higher political ambitions
3. Compensation should be fair and equitable, commensurate with the time and effort that has to be invested in the position.

Businesses awarded contracts for work that does not require prevailing wage shall:

1. limit the mark up for themselves, contractors and subcontractors to no more than 10% over the actual paid cost of materials and the actual paid costs of labor.
2. the businesses, contractors and subcontractors shall disclose the overhead costs and profit on the contract.
3. the businesses, contractors and subcontractors shall provide certified payroll records to the city business office for these contracts.
4. Costs of materials are defined as the actual amount paid for the materials less any discounts, rebates or value of free bonus materials.